



[ADVANCE \y 63] **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Via UPS

Timothy M. Miller
President & Registered Agent
930 Port Street, Inc.
28102 Baileys Neck Road
Easton, MD 21601

Re: Opportunity to Show Cause pursuant to Subtitle I of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6991-6991i, and regulations promulgated pursuant thereto, regarding Underground Storage Tanks located at Easton Point facility located at 930 Port Street, Easton, Maryland.

Dear Mr. Miller:

From the information currently available from the EPA inspection of the facility known as Easton Point located at 930 Port Street in Easton, Maryland (the "Facility") on June 13, 2018, including follow up information provided by you, EPA reasonably believes that you as the "operator" and 930 Port Street, Inc. ("Port Street") as the "owner" of underground storage tanks ("USTs") located at the Facility may have violated Subtitle I of RCRA, and the State of Maryland's UST program. As a result, EPA believes that there is a sufficient basis for the assessment of civil penalties and requiring you and Port Street to comply with Subtitle I of RCRA and State of Maryland's UST program. EPA is herein providing you and Port Street with the opportunity to confer with EPA to show cause as to any reasons why the assessment of civil penalties and the commenced of an enforcement action should not be issued for any or all of the violations identified below.

Part I: Preliminary Conclusions Regarding Violations

The specific regulations that EPA has reason to believe have been violated are found in the State of Maryland's federally authorized UST management program. [SEQ CHAPTER \h \r 1]Effective July 30, 1992, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the State of Maryland was granted final authorization to administer a State UST management program *in lieu* of the Federal UST management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i. The provisions of the Maryland UST management program, through this final authorization, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Maryland's authorized UST regulations are administered by the Maryland Department of the Environment ("MDE"), and are set forth in the Code of Maryland Regulations and will be

cited as “COMAR” followed by the applicable section of the regulations, a copy of which can be provided to you upon request. [SEQ CHAPTER \h \r 1]The provisions of the Maryland’s UST management program, through these final authorizations, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e.

Suspected Violations Identified by EPA:

1. Failure to conduct tank release detection every 30 days on USTs at the Facility as required by COMAR 26.10.05.02(B).
2. Failure to test line leak detectors (LLDs) for such USTs at the Facility annually as required by COMAR 26.10.05.05(B).
3. Failure to conduct line tightness testing or utilize a monthly monitoring method for the pressurized piping as required by COMAR 26.10.05.02(C)(2)(b) and COMAR 26.10.05.05(C), respectively.
4. Failure to report a suspected release as required by COMAR 26.10.08.01(B)(3).
5. Failure to investigate a suspected release as required by COMAR 26.10.08.03.
6. Failure to test the cathodic protection system as required by COMAR 26.10.04.02(D)(1).

Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), authorizes EPA to assess a civil penalty against any owner or operator of an underground storage tank who fails to comply with, *inter alia*, any requirement or standard promulgated under Section 9003 of RCRA, 42 U.S.C. § 6991b (40 C.F.R. Part 280) or any requirement or standard of a State UST program that has been approved by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c. For purposes of determining the amount of any penalty to be assessed, Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), requires EPA to take into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. In developing a proposed penalty for the violations alleged herein, EPA will take into account the particular facts and circumstances of this case with specific reference to EPA's Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations (“UST Penalty Guidance”) ([HYPERLINK "http://www.epa.gov/oust/directiv/od961012.htm"]), and EPA’s January 11, 2018 memorandum by EPA Assistant Administrator Susan Parker Bodine, entitled *Amendments to EPA’s Civil Penalty Policies to Account for Inflation (Effective January 15, 2018)* ([HYPERLINK "https://www.epa.gov/enforcement/amendments-epas-civil-penalty-policies-account-inflation-effective-january-15-2018"]).

Part 2: Opportunity to Meet and Settle

If you and Port Street have any additional information relevant to this matter which you believe EPA should consider prior to filing a formal enforcement action (i.e. Administrative Complaint), EPA requests that you or your representative provide such information, and/or show cause why an Administrative Complaint should not be issued, within twenty-one (21) calendar days of receipt of this letter. If no additional information is to be provided and you would like to settle this matter, please contact Melissa Toffel of my staff at 215-814-2060 or by email at toffel.melissa@epa.gov. If you and/or East Point are represented by legal counsel and you would like to settle this matter, please contact Louis F. Ramalho, Senior Assistant Regional Counsel at 215-814-2681 or by email at [\[HYPERLINK "mailto:ramalho.louis@epa.gov" \]](mailto:ramalho.louis@epa.gov). If you do not respond within twenty-one (21) calendar days of receipt of this letter or the parties have not reached a satisfactory administrative resolution of these alleged violations within ninety (90) calendar days of receipt of this letter, the Agency may proceed with an appropriate enforcement response without further prior notice.

Please send all information, and direct any request for a settlement conference, to the attention of:

Melissa Toffel
Environmental Protection Specialist
U.S. EPA, Region III
Office of Land Enforcement (3LC31)
1650 Arch Street
Philadelphia, PA 19103
Phone: (215) 814-3384
E-mail: toffel.melissa@epa.gov

You are entitled to assert a claim of business confidentiality covering any part or all of the submitted information in the manner described in 40 C.F.R. § 2.203(b). Information subject to the claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. Unless a business confidentiality claim is asserted at the time the information is submitted, EPA may make such information available to the public without further notice to you.

Sincerely,

Carol Amend
Associate Director
Land & Chemicals Division
Office of RCRA Programs

Enclosure

cc: M. Toffel, EPA
L. Ramalho, EPA

